



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शुक्रवार, 4 मार्च, 1955

Law Department

NOTIFICATION

Simla-4, the 23rd February, 1955

No. LR-1-119/54.—In pursuance of Section 33-A of the Government of Part 'C' States Act, 1951, the Lieutenant Governor is pleased to order the publication of the following English Translation of the Himachal Pradesh Bari Zamindari Unimulan Tatha Bhumi Vyabastha Adhiniyam (The Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act) 1953, as passed by the Himachal Pradesh Vidhan Sabha and assented to by the President on the 23rd November, 1954.

Act No. 15 of 1954

The Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953

(AUTHORIZED TEXT)

AN

ACT

to provide for the abolition of the big landed estates and to reform the law relating to tenancies in the Himachal Pradesh

Preamble.—WHEREAS it is expedient to provide for the abolition of the big landed estates and to reform the law relating to tenancies

and to make provision for matters connected therewith;

It is hereby enacted as follows :

CHAPTER I

PRELIMINARY

1. Title, extent and commencement.—(1) This Act may be called the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953.

(2) It extends to the whole of the Himachal Pradesh.

(3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context—

(1) “agricultural year” means the year commencing on the sixteenth day of June, or on such other date as the State Government may, by notification, appoint for any local area;

(2) “arrear of rent” means rent which remains unpaid after the date on which it becomes payable;

(3) “estate”, “land-owner” and “holding” have the meanings respectively assigned to these words in the Punjab Land Revenue Act, 1887, as in force in Himachal Pradesh immediately before 26th January, 1950;

(4) “improvement” means with reference to a tenancy any work which is suitable to the tenancy and consistent with the conditions on which it is held, by which the value of the tenancy has been and continues to be increased and which, if not executed on the tenancy, is either executed directly for its benefit, or is, after execution, made directly beneficial to it:

Explanation 1.—It includes among other things—

(a) the construction of wells and other works for the storage or supply of water for agricultural purposes;

(b) the construction of works for drainage and for protection against floods;

(c) the planting of trees, the reclaiming, enclosing, levelling and terracing of land for agricultural purposes and other works of a like nature;

(d) the erection of buildings required for the more convenient or profitable cultivation of a tenancy; and

(e) the renewal or reconstruction of any of the foregoing works or such alteration therein, or additions thereto, as are not of the nature of mere repairs and as durably increase their value;

But it does not include such clearances, embankments, levellings, enclosures, temporary wells and water channels as are made by tenants in the ordinary course of cultivation and without any special expenditure, or any other benefit accruing to land from the ordinary operations of husbandry.

Explanation II.—A work which benefits several tenancies may be deemed to be, with respect to each of them, an improvement.

Explanation III.—A work executed by a tenant is not an improvement if it substantially diminishes the value of any other part of his landlord's property.

(5) "land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes—

(a) the sites of buildings and other structures on such land,

(b) orchards,

(c) ghasnies ;

(6) "landlord" means a person under whom a tenant holds land, and to whom the tenant is or but for a contract to the contrary would be liable to pay rent for that land ;

(7) "land revenue" means land revenue assessed under any law for the time being in force or assessable under the Punjab Land Revenue Act, 1887, as in force in Himachal Pradesh immediately before 26th January, 1950 and includes—

(a) any rate imposed in respect of the increased value of land due to irrigation, and

(b) any sum payable in respect of land by way of quit rent or of commutation for service to the State or to a person to whom the State has assigned the right to receive the payment ;

(8) "legal practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879 ;

(9) "notification" means a notification published by authority of the State Government in the official gazette ;

- (10) "pay" with its grammatical variations and cognate expressions, includes, when used with reference to rent "deliver" and "render" with their grammatical variations and cognate expressions ;
- (11) "prescribed" means prescribed according to the rules framed under the Act ;
- (12) "rates and cesses" means rates and cesses which are primarily payable by land-owners, and includes—
 - (a) the local rate, if any, payable under the law in force in the State, and any fee payable to local bodies including the Panchayats formed under the Himachal Pradesh Panchayat Raj Act, 1953, for the use of all benefits derived from the following works—
 - (i) the constructions and repair of embankments and the supply, storage and control of water for agricultural purposes,
 - (ii) the preservation and reclamation of soil and the drainage and reclamation of swamps ;
 - (b) any annual rate chargeable under law on owners of lands in connection with irrigation,
 - (c) the village officer's cesses, and
 - (d) sums payable on account of village expenses ;
- (13) "rent" means whatever is payable to a land-lord in money, kind or service by a tenant on account of the use or occupation of land held by him ;
- (14) "Revenue-officer" or "Revenue Court", in any provision of this Act, means a Revenue-officer or Revenue Court having authority under this Act to discharge the functions of a Revenue-officer or Revenue Court, as the case may be, under that provision ;
- (15) "State Government" means the Lieutenant Governor of Himachal Pradesh ;
- (16) "Sub-tenant" means a tenant holding, whether immediately or mediately, under another tenant ;
- (17) "tenant" means a person who holds land under another person, and is, or but for a contract to the contrary would be liable to pay rent for that land to that other person ; but it does not include—
 - (a) an inferior land owner, or
 - (b) a mortgagee of the rights of a land-owner, or

- (c) a person to whom a holding has been transferred or an estate or holding has been let in farm under the Punjab Land Revenue Act, 1887, as in force in Himachal Pradesh, immediately before 26th January, 1950 for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear, or
- (d) a person who takes from the State Government a lease of unoccupied land for the purpose of subletting it;
- (18) "tenant" and "landlord" include the predecessors and successors-in-interest of a tenant and landlord, respectively;
- (19) "tenancy" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions;
- (20) "thrashing floor" means any place where any agricultural produce including potatoes and ginger crop is separated or gathered by any mechanical or other means;
- (21) "village cess" includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service, nor imposed by or under any enactment for the time being in force;
- (22) "Village Officer" means a Nambardar or Patwari.

CHAPTER II

RIGHT OF OCCUPANCY

3. Tenants having right of occupancy. — (1) A tenant—

- (a) who at the commencement of this Act has for a period of not less than twelve years been occupying land paying no rent therefor beyond the amount of the land revenue thereof and the rates and cesses for the time being chargeable thereon; or
- (b) who having owned land, and having ceased to be land-owner thereof otherwise than by forfeiture to the Government or than by any voluntary act, has,

since he ceased to be land-owner, continuously occupied the land; or

(c) who has broken up land for cultivation, has a right of occupancy in the land so occupied or in the land so broken up for cultivation.

4. Right of occupancy of other tenants recorded as having the right before the commencement of this Act.—A tenant recorded in a record-of-rights prepared before the coming into force of this Act, as a tenant having a right of occupancy in any land which he has continuously occupied from the time of the preparation of that record, shall be deemed to have a right of occupancy in that land unless the contrary has been established by a decree of a competent court in a suit instituted before the commencement of this Act.

5. Right of occupancy in land taken in exchange.—If the tenant has voluntarily exchanged the land, or any portion of the land, formerly occupied by him for other land belonging to the same landlord, the land taken in exchange shall be held to be subject to the same right of occupancy as that to which the land given in exchange would have been subject if the exchange had not taken place.

6. Establishment of right of occupancy on grounds other than those expressly stated in the Act.—Nothing in the foregoing sections of this chapter shall preclude any person from establishing a right of occupancy on any ground other than the grounds specified in those sections.

7. Right of occupancy not to be acquired by joint owner in land held in joint ownership.—In the absence of a custom to the contrary no one of several joint owners of land shall acquire a right of occupancy under this chapter in land jointly owned by them.

8. Continuance of existing occupancy rights.—Notwithstanding anything in the foregoing sections of this chapter, a tenant who immediately before the commencement of this Act has a right of occupancy in any land under the Punjab Tenancy Act,

1887 as applied to Himachal Pradesh and hereby repealed, shall, when this Act comes into force, be held to have for all purposes a right of occupancy in the land.

CHAPTER III

ACQUISITION OF PROPRIETARY RIGHTS BY TENANTS

9. Appointment of compensation officer.—(1) As soon as may be after the commencement of this Act, the State Government shall appoint compensation officers to carry out the purposes of this Act, including partitions, operations in holdings, assessment of compensation and settlement of disputes between the land owners and their tenants.

(2) The compensation officer shall be guided by such instructions not inconsistent with the provisions of this Act as the State Government may from time to time issue.

10. Powers of the State Government.—The State Government shall have power—

- (a) to give effect to the provisions of this Act and in particular to exercise control and superintendence over compensation officers;
- (b) to issue instructions for the guidance of compensation officers; and
- (c) to cancel or revise any of the orders, acts or proceedings of compensation officers other than those in respect of which an appeal lies under this Act.

11. Right of tenant to acquire interests of land-owner.—

(1) Notwithstanding any law, custom or contract to the contrary a tenant other than a sub-tenant shall, on application made to the compensation officer at any time after the commencement of this Act, be entitled to acquire, on payment of compensation, the right, title and interest of the landowner in the land of the tenancy held by him under the landowner:

Provided that a tenant not having a right of occupancy shall not be entitled to acquire the right, title and interest of the landowner in the land of the tenancy from which he is liable to eject-

ment under clause (d) or clause (f) or clause (g) of sub-section (1) of section 54.

(2) Nothing contained in sub-section (1) shall apply to a land-lord, if he has no other means of livelihood and is a minor, widow or a person suffering from physical or mental disability incapable of earning his livelihood. In the case of a minor, sub-section (1) shall not apply during his minority and in other cases for his life time.

(3) The application referred to in sub-section (1) shall be made in writing to the compensation officer who shall thereupon determine the amount of compensation payable to the land-owner in respect of the land in accordance with the provisions of sections 12 and 13.

(4) The tenant may pay the amount of compensation as determined by the compensation officer under sub-section (3) either in one lump sum or in such number of instalments not exceeding ten as may be determined by the compensation officer during a period not exceeding five years; and such compensation or such instalments of compensation shall be paid on such date or dates as may be fixed by the compensation officer in this behalf.

(5) The amount of compensation or any instalment thereof shall be deposited by the tenant in a Government treasury and as soon as the compensation or the first instalment thereof has been deposited in the Government treasury, the compensation officer shall grant a certificate in the prescribed form declaring the tenant to be the landowner in respect of the land specified in the certificate.

(6) On and from the date of the grant of the certificate under sub-section (5) the tenant shall become the owner of the land comprised in the tenancy and the right, title and interest of the landowner in the said land shall determine.

(7) An instalment of compensation which is not paid on the date fixed by the compensation officer, shall together with interest thereon at the rate of two and half percent per annum be recoverable as an arrear of land revenue.

(8) Where compensation is paid in instalments the unpaid amount of compensation shall be a charge upon the land.

12. Determination of compensation.—(1) The amount of compensation payable by a tenant for acquisition of the right, title and interest of the land owner in the land of the tenancy shall be determined by the compensation officer in accordance with the provisions of the Schedule.

(2) (a) Any person aggrieved by an order of the compensation officer under sub-section (1) may, within forty-five days from the date of the order, appeal to the District Judge.

(b) Where any such appeal is preferred to the District Judge, he shall cause to be published in the prescribed manner a notice requiring the landowner or the tenant as the case may be, to appear before him and after giving the parties a reasonable opportunity of being heard shall give his decision.

(c) As against the decision of the District Judge an appeal shall lie within such period as may be prescribed to the Judicial Commissioner whose decision shall be final and shall not be liable to be called in question in any court or before any authority.

(3) No decision of the District Judge or the Judicial Commissioner under sub-section (2) shall be invalid by reason of any defect in the form of notice or manner of its publication.

(4) Every decision of the compensation officer under this section shall, subject to the provision of sub-section (2), be binding on all persons claiming an interest in the holding concerned, notwithstanding any such person not having appeared or participated in the proceedings before the compensation officer, the District Judge or the Judicial Commissioner, as the case may be.

13. Total compensation payable by a tenant.—The total compensation payable by a tenant shall be the amount of compensation determined under section 12 together with the value of any building standing on the land and belonging to the landowner, as assessed by the compensation officer:

Provided that if the tenant does not want to acquire the building, the value of the building assessed shall be excluded from the amount of total compensation and the landowner shall be entitled to the building and so much of the land adjacent thereto as has been in his use for the last one year prior to the commencement of this Act and a right of passage to the building.

14. Acquisition by the tenant of the rights of the landowner in a portion of the lands of tenancy in certain circumstances.—(1) Notwithstanding any thing contained in section 11 a tenant other than a sub-tenant who holds a tenancy exceeding twelve acres in area may at any time after the commencement of this Act, make an application to the compensation officer for surrender to the landowner an area equal—

(a) in the case of of occupancy tenant, to one-fourth of the lands of the tenancy; and

(b) in other cases, to three-eighths of the lands of the tenancy.

(2) When an application for surrender has been made under sub-section (1) the compensation officer shall demarcate the area surrendered in favour of the landowner from the rest of the lands of the tenancy and deliver possession of the same to the landowner.

(3) Upon such delivery of possession the tenant shall forthwith become the owner in respect of the rest of the lands of the tenancy and the right, title and interest of the landowner in the said lands shall determine.

15. Acquisition by the State Government of the rights of the landowner.—(1) Notwithstanding anything contained in the foregoing provisions of this Chapter but subject to the provisions of clause (d) and clause (g) of sub-section (1) of section 54, the State Government may by notification in the Gazette declare that as from such date and in respect of such area as may be specified in the notification, the right, title and interest of the landowner in the lands of any tenancy held under him by a tenant shall stand transferred to and vest in the State Government free from all incumbrances created in such lands by the landowner.

(2) With effect from the aforesaid date--

- (a) the landowner shall cease to have any right to collect or to receive any rent or any share of the land revenue in respect of such lands and his liability to pay the land revenue in respect of the lands shall also cease;
- (b) the tenant shall pay direct to the State Government the rent he was liable to pay to the landowner before the date of the notification; and
- (c) the consequences mentioned in clauses (b) to (f) of section 84 shall *mutatis mutandis* ensue.

16. Compensation to landowners for acquisition of their rights.—The landowner whose right, title and interest in lands have been acquired by the State Government under section 15 shall be entitled to compensation which shall be calculated as far as practicable according to the provisions of sections 12 and 13.

17. Manner of payment of compensation.—The compensation payable to a landowner under section 16 shall be given in cash or in bonds or partly in cash and partly in bonds as may be prescribed.

18. Interest on compensation.—There shall be paid by the State Government on the amount of compensation payable to the landowner interest at the rate of two and half per cent per annum from the date of the vesting in the State Government of the right, title and interest of the landowner to the date of —

- (a) payment of the amount of compensation to the landowner where compensation is to be given in cash; and
- (b) redemption of the bonds where the amount of compensation is to be given in bonds.

19. Claims for compensation and determination of such claims.—(1) The compensation officer as soon as may be after the determination of the amount of compensation under this Chapter, shall cause to be published in the prescribed manner in the village or the estate a notice requiring all persons claiming an interest in the

total compensation in respect of the lands of any tenancy, to file before him a statement within a period of six months from the date of publication of the notice.

(2) Any claim for compensation which is not made to the compensation officer within the time specified in sub-section (1) shall cease to be enforceable :

Provided that the compensation officer may in suitable cases extend the period within which such claim may be made.

20. Reference to civil court.—Where any dispute arises between persons claiming compensation the compensation officer shall require them to refer their claims to a competent civil court for adjudication.

21. Payment of compensation.—(1) Where there is no dispute between the claimants as to their respective shares in the compensation, the compensation officer shall make payment to them in accordance with their respective shares.

(2) Where there is a dispute between the claimants as to their respective shares in the compensation, the compensation officer shall make payment to them in accordance with the adjudication of the civil court under section 20.

22. Compensation to be deposited in case of minors.—Where the land-owner is a minor the compensation officer shall cause the compensation to be deposited with the collector or in any bank selected in this behalf by the State Government.

23. Arrears of land revenue to be deducted.—The arrears of land revenue, if any, shall be deducted by the compensation officer from the total amount of compensation payable to the landowner and credited to the State Government.

24. Sham-i-Lat lands.—(1) Where under the provisions of this Act the right, title and interest of the landowner in the lands of a tenancy are acquired by the tenant or the State Government, the rights of the landowner in the sham-i-lat shall devolve on the tenant or the State Government, as the case may be, to the extent of such acquisition.

(2) The provisions of this Chapter relating to the determination and payment of compensation shall, so far as may be, apply in relation to the acquisition of the rights of the landowner in such sham-i-lat lands as they apply in relation to the acquisition of such rights in other lands :

Provided that in any case where the sham-i-lat is not liable to the payment of land revenue, the land revenue in respect thereof shall for the purpose of computing the compensation, be assessed at such rate as may be prescribed.

25. Supplementary powers of compensation officer.—

The compensation officer shall have the powers of a civil court under the Code of Civil Procedure, 1908, for the purpose of administering oaths, taking evidence and of enforcing the attendance of witnesses and compelling the production of documents and material objects.

26. Power to make rules.—(1) The State Government may make rules to carry out the purposes of this Chapter

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for -

- (a) all matters expressly required or allowed to be prescribed ;
- (b) the procedure to be followed by the compensation officers in the discharge of their duties and functions ;
- (c) the manner of determining the compensation payable by the tenant to the landowner under sections 12 and 13 ;
- (d) the manner in which the compensation is to be deposited by a tenant in the treasury ;
- (e) the manner in which the compensation is to be paid to the landowner ;
- (f) the principle and manner of determining rehabilitation grants ;
- (g) fees, if any, to be paid on application or petitions under this Chapter ;

- (h) transfer of proceedings from one compensation officer to another;
- (i) manner of publication of notices; and
- (j) generally, for the guidance of compensation officers and other persons in matters connected with the enforcement of the provisions of this Chapter.

27. Vesting of rights of ownership in the Government.—

(1) Notwithstanding anything contained in the foregoing provisions of this Chapter, a land-owner who holds land, the annual land revenue of which exceeds Rs 125/- per year, the right, title and interest of such owner in such land shall be deemed to have been transferred and vested in the State Government free from all encumbrances.

(2) Nothing contained in sub-section (1) shall apply in respect of such land which is under the personal cultivation of the land-owner.

(3) The land owner whose rights are acquired under sub-section (1) by the State Government, shall be entitled to receive compensation which shall be determined by the Compensation Officer having regard to Sections 17 and 18 of this Act, in accordance with the provisions of Schedule II, but in the case of such occupancy tenant who is liable to pay rent in terms of land revenue or the multiple of land revenue, the compensation payable to his land owner shall be computed in accordance with Schedule I.

(4) The right, title and interest of the land-owner acquired under sub-section (1) or (2) shall be transferred by the State Government on the payment of compensation in accordance with Schedule I to such tenant who cultivates such land.

(5) The State Government shall give rehabilitation grant according to the rules framed under this Act, to such small land-owner whose right, title and interest have been extinguished and who does not have any other means of livelihood.

CHAPTER IV

RENTS

RENTS GENERALLY

28. Respective rights of landlord and tenant to produce.—

(1) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.

(2) A tenant shall be entitled to tend, cut and harvest the produce of his tenancy in due course of husbandry without any interference on the part of his land-lord.

(3) Except where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(4) Where rent is taken by division of the produce—

(a) the tenant shall be entitled to the exclusive possession of the whole produce until it is divided;

(b) the landlord shall be entitled to be present at, and take part in the division of the produce, which shall be made at the thrashing floor;

(c) when the produce has been divided the landlord shall be entitled to the possession of his share thereof.

29. Commutation of rent payable in kind.— (1) Where a tenant pays for a tenancy rent in kind or on the estimated value of portion of the crop or at rates varying with, or fixed with reference to the nature of, the crops grown or partly in one of those ways and partly in another the tenant may apply to have the rent commuted to a money-rent.

(2) The application shall be made to the collector or to any other officer specially authorised in this behalf by the State Government.

(3) On the receipt of the application the officer may determine the sum to be paid as money rent and may order that the tenant shall in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined as rent:

Provided that the sum determined as money rent shall in no case exceed the maximum limit for rent laid down in section 39.

(4) In making the determination the officer shall have regard to—

- (a) the average money-rent payable by tenants for lands of a similar description and with similar advantages in the vicinity;
- (b) the average value of the rent actually received by the landowner during the preceding ten years or during any shorter period for which evidence may be available; and
- (c) the charges, if any, incurred by the landowner in respect of irrigation under the system of rent in kind.

(5) The order shall be in writing, and shall state the grounds on which it is made, and the time from which it is to take effect, and shall be subject to appeal in like manner as if it were an order made in an ordinary revenue proceeding.

30. Payment for land occupied without consent of landlord.—Any person in possession of land occupied without the consent of the landlord shall be liable to pay for the use or occupation of that land at the rate of rent payable in the preceding agricultural year, or, if rent was not payable in that year, at such rate as the court may determine to be fair and equitable.

31. Collection of rents of undivided property.—When two or more persons are landlords of a tenant in respect of the same tenancy, the tenant shall not be bound to pay part of the rent of his tenancy to one of those persons and part to another.

PRODUCE RENTS

32. Presumption with respect to produce removed before division or appraisement.—Where rent is taken by division or appraisement of the produce, if the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due division or appraisement thereof, or deals therewith in a manner contrary to established usage, the produce may be deemed to have been as full as the fullest crop of the

same description on similar land in the neighbourhood for that harvest.

33. Appointment of referee for division or appraisement. —

If either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division or appraisement of the produce, or if there is a dispute about the division or appraisement, a Revenue-officer may on the application of either party, appoint such person as he thinks fit to be a referee to divide or appraise the produce.

34. Appointment of assessors and procedure of referee. —

(1) When a Revenue-officer appoints referee under the last foregoing section, he may, give him instructions with respect to the association with himself of any other persons as assessors, the number, qualifications and selection of those assessors and the procedure to be followed in making the division or appraisement.

(2) The referee so appointed shall make the division or appraisement in accordance with any instructions which he may have received from the Revenue-officer under the last foregoing sub-section.

(3) Before making the division or appraisement the referee shall give notice to the landlord and the tenant of the time and place at which the division or appraisement will be made but if either the landlord or the tenant fails to attend either personally or by agent, the referee may proceed ex-parte.

(4) For the purpose of making the division or appraisement, the referee with his assessors, if any, may enter upon any land on which or into any building in which the produce is.

35. Procedure after division or appraisement. —(1) The result of the division or appraisement shall be recorded and signed by the referee, and the record shall be submitted to the Revenue-officer.

(2) The Revenue-officer shall consider the record, and, after such further inquiry, if any, as he may deem necessary, shall make an order either confirming or varying the division or appraisement.

(3) The Revenue-officer shall also make such order as to the costs of the reference as he thinks fit.

(4) The costs may include the remuneration of the referee and of the assessors, if any, and may be realized from the applicant before appointment of the referee subject to adjustment at the close of the proceedings.

36. Reduction of rents.—The rent payable by a tenant may be reduced on the ground that the productive powers of his tenancy have been decreased by a cause beyond his control.

GENERAL-PROVISIONS RELATING TO SUITS FOR ENHANCEMENT OR REDUCTION OF RENT

37. Enhancement and reduction of rent by suit.—(1) A Revenue Court, on the suit of either land-lord or tenant, may, subject to the provisions of this and other sections of this Act enhance or reduce the rent of any tenant.

(2) Where a decree for the enhancement of the rent of such a tenant has been passed, a suit for a further enhancement of his rent shall not lie till the expiration of five years from the date of the decree unless in the meantime the local area in which the land comprised in the decree is situate has been generally re-assessed and the revenue payable in respect of that land has been increased.

(3) Subject to the provisions of sub-section (2), a suit instituted for the enhancement of the rent of a tenant shall not be entertained in either of the following cases, namely—

- (a) if within the ten years next preceding its institution his rent has been commuted under section 29 or enhanced under this section ;
- (b) if within that period a decree has been passed under this Act. dismissing on the merits a suit for the enhancement of this rent.

38. Time for enhancement or reduction to take effect.—
(1) Unless the court decreeing an enhancement of rent otherwise

directs the enhancement shall take effect from the commencement of the agricultural year next following the date of the decree.

(2) A court decreeing a reduction of rent shall specify in the decree the date on and from which the reduction is to take effect.

ADJUSTMENT OF RENT EXPRESSED IN TERMS OF THE LAND REVENUE

39. Maximum limit for rent.—(1) Notwithstanding anything contained in the Act or in any agreement or usage or any decree or order of a court the maximum rent payable by the tenant for any land held by him shall not exceed one forth of the crop of such land or of the value of such produce. The value of the crop or rent shall when necessary, be determined by the Collector in accordance with the rules, which may be framed by the Financial Commissioner:

Provided that *ghas*, *bhusa* shall not be included in the produce.

(2) No land-owner shall have the right to enhance the rent payable merely on the grounds that it is less than the limit prescribed in sub-section (1).

Explanation.—If the rent payable has been reduced under the Punjab Tenancy (Himachal Pradesh Amendment) Act, 1953, the rent payable shall be deemed to be the same as it was previous to the enforcement of this Act.

40. Adjustment of rents expressed in terms of the Land Revenue. (1) Where the rent of a tenancy in the whole or a share of the land revenue thereof, with or without an addition in money, kind or service and the land revenue of the holding in which the tenancy is situate, is altered, a Revenue-officer having authority under the Punjab Land Revenue Act, 1887, as in force in Himachal Pradesh immediately before 26th January, 1950 to determine the land revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situate, shall determine also the amount of the land revenue of the tenancy, or the proportionate share thereof, payable by the tenant as rent.

(2) Where an addition referred to in sub-section (1) is a percentage fixed with the land revenue of the tenancy, or the

whole or a share of the rates and cesses chargeable thereon, or both, the Revenue-officer shall in like manner from time to time alter the amount of the addition in proportion to any alteration of such land revenue or rates and cesses.

(3) The sum or sums determined under the foregoing sub-sections together with any addition previously payable other than the addition referred to in sub-section (2), shall be the rent payable in respect of the tenancy until there is again an alteration of the land revenue thereof or of the rates and cesses chargeable thereon or until the rent is enhanced by a suit under this Act.

(4) An alteration of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

ALTERATION OF RENT ON ALTERATION OF AREA

41. Alteration of rent on alteration of area.—(1) Every tenant shall—

- (a) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to his tenancy of land which, having previously belonged to the tenancy was lost by diluvian or otherwise without any reduction of the rent being made ; and
- (b) be entitled to an abatement of rent in respect of any deficiency proved to exist in the area of his tenancy as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenancy by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(2) In determining the area for which rent has been previously paid, the Court shall have regard to the following, among other matters, namely —

(a) the origin and conditions of the tenant's occupancy, for instance, whether the rent was a rent in gross for the entire tenancy ;

(b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord ; and

(c) the length of time during which there has been no dispute as to rent or area.

(3) In adding to or abating rent under this section, the Court shall add to or abate the rent to such an amount as it deems to be fair and equitable, and shall specify in its decree the date on and from which addition or abatement is to take effect.

(4) An addition to or abatement of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

REMISSION

42. Remission of rent by Court decreeing arrears.—Notwithstanding anything in the fore-going sections of this chapter, if it appears to a Court making a decree for an arrear of rent that the area of tenancy has been so diminished by diluvian or otherwise, or that the produce thereof has been so diminished by draught, hail, deposit of sand or other like calamity, that the full amount of rent payable by the tenant cannot be equitably decreed, the court may, with the previous sanction of the Collector, allow such remission from the rent payable by the tenant as may appear to it to be just.

43. Remission and suspension of rent consequent on like treatment of land revenue.—(1) Wherever the payment of the whole or any part of the land revenue payable in respect of any land is remitted or suspended, a Revenue-officer may, if the rent be payable in cash or be payable in kind of which the amount is fixed, by order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the

land revenue of which payment has been remitted or suspended bears to the whole of the land revenue payable in respect of the land.

When the payment of the rent of any land has been suspended under this sub-section it shall remain under suspension, until the Collector orders the revenue of that land to be realized.

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) A suit shall not lie for the recovery of any rent of which the payment has been remitted, or during the period of suspension of any rent of which the payment has been suspended.

(4) Where the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent.

(5) If the landlord collects from a tenant any rent of which the payment has been remitted, or is under suspension, the Revenue-officer may recover from the landlord the amount or value of the rent so collected and may also recover by way of penalty a further sum not exceeding such amount or value and may cause to be refunded to the tenant the amount or value of the rent so collected from him.

(6) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, so far as they can be made applicable, to land of which the land revenue has been released, compounded for or redeemed, in any case in which, if the land revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it, might, in the opinion of the Revenue-officer, be remitted or suspended, under the rules for the time being in force for regulating the remission and suspension of land revenue.

(7) Any sum of which the recovery is ordered under sub-section (5) on account of rent or penalty may be recovered by the Collector as if it were an arrear of land revenue.

DEPOSITS

44. Power to deposit rent in certain cases with Revenue-officer.—In either of the following cases, namely—

- (a) when a land-lord refuses to receive, or grant a receipt for any rent payable in money when tendered to him by a tenant ;
- (b) when a tenant is in doubt as to the persons entitled to receive rent payable in money,

the tenant may apply to a Revenue-officer for leave to deposit the rent in his office, and the Revenue-officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application and if the applicant pays the fee, if any, chargeable for the issue of the notice next hereinafter referred to.

45 Effect of depositing rent.—(1) When a deposit has been so received, it shall be deemed to be a payment made by the tenant to his land-lord in respect of rent due.

(2) The Revenue-officer receiving the deposit shall give notice of the receipt thereof to every person who, he has reason to believe, claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled thereto, or may, if he thinks fit, retain the deposit pending the decision of a competent Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the State or against any officer of the State in respect of anything done by a Revenue-officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

RECOVERY OF RENT FROM ATTACHED PRODUCE

46. Recovery of rent from attached produce.—(1) If an order is made by any Court for the attachment of the produce of a tenancy or of any part of a tenancy, the landlord may apply to the Revenue-officer by whom the attachment is to be or has been made to

sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

- (a) any rent which has fallen due to him in respect of the tenancy, within the year immediately preceding the application, and
- (b) the rent which will be falling due after the harvesting of the produce and is chargeable against it.

(2) The Revenue-officer shall give the person at whose instance the attachment was made an opportunity of showing cause why the application of the land-lord should not be granted, and, if he finds the land-lord's claim to the whole or any part of the rent to be proved, he shall cause the produce or such produce or such portion thereof as he may deem necessary to be sold, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(3) The finding of the Revenue-officer under sub-section (2) shall have the force of a decree in a suit between the land-lord and the tenant.

LEASES FOR PERIOD EXCEEDING TERM OF ASSESSMENT OF LAND REVENUE

47. Treatment of leases for period exceeding or equal to term of assessment of land revenue.—(1) Where a lease has been granted, or an agreement has been entered into, by a land owner in respect of any land assessed to land revenue, fixing for a period exceeding the terms for which the land revenue has been assessed the rent or other sum payable in respect of the land under the lease or agreement and that term has expired, the lease or agreement shall be voidable—

- (a) at the option of the land-owner if the land revenue of the land has been enhanced and the person to whom the lease has been granted or with whom the agreement has been entered into, refuses to pay such rent or other sum as a Revenue Court, on the suit of the land-owner determine to be fair and equitable;

and where the relation of land-lord and tenant exists between the grantor and grantee of the lease, or between the person who entered into the agreement—

- (b) at the option of the tenant if the land revenue of the land has been reduced and the land-lord refuses to accept such rent as a Revenue Court, on the suit of the tenant determines to be fair and equitable.

CHAPTER V

LEASE, RELINQUISHMENT, ABANDONMENT AND EJECTMENT LEASE

48. Leases.—A land-owner who—

- (a) is a minor or a female ; or
- (b) is permanently incapable of cultivating land by reason of any physical or mental infirmity; or
- (c) is serving in the Armed Forces ; or
- (d) is temporarily prevented by any sufficient cause beyond his control, from cultivating land;

may, with the permission of the Collector lease land held by him for such period as the Collector may fix :

Provided that where such disability ceases, by reason of the death of the land-owner or otherwise, before the expiry of the period of lease fixed by the Collector, the lease shall be terminated within such period as the Collector may appoint.

RELINQUISHMENT

49. Relinquishment by tenant for a fixed term.—A tenant holding for a fixed term under contract or decree or order of competent authority may relinquish his tenancy without notice at the end of that term.

50. Relinquishment by any other tenant.—(1) Any other tenant may relinquish his tenancy by giving in writing to his land-lord, or to his landlord's agent, on or before the fifteenth day of January in any year, notice of his intention to relinquish the tenancy at the end of the agricultural year then current.

(2) The tenant may, instead of, or in addition to, giving the notice in the manner mentioned in sub-section (1), apply to a Revenue-officer, on or before the date aforesaid to cause the notice to be served on the land-lord, and the Revenue-officer, on receiving the cost of service from the tenant, shall cause notice to be served as soon as may be.

(3) If the tenant does not give notice in the manner prescribed in this section, he shall be liable to pay the rent of his tenancy for any part of the ensuing agricultural year during which the tenancy is not let by the land-lord to some other person or is not cultivated by the landlord himself.

51. Relinquishment of part only of tenancy.—A tenant cannot, without the consent of the landlord, relinquish a part only of his tenancy.

ABANDONMENT

52. Abandonment of tenancy.—If a tenant having a right of occupancy fails for more than one year without sufficient cause to cultivate his tenancy, and to arrange for payment of the rent thereof as it falls due, the right of occupancy shall be extinguished from the end of that year :

Provided that a member of the Armed Forces, an un-married woman, or if married, divorced or separated from husband or a widow, a minor, a person suffering from physical or mental disability because of which he cannot cultivate the land himself, a person prosecuting studies in a recognized institution, and a person under detention or imprisonment shall not be liable to ejectment because he sublets the holding or a part thereof without the consent of the landlord.

EJECTMENT

53. Grounds of ejectment of occupancy tenant.—A tenant having a right of occupancy shall not be liable to be ejected from his tenancy except on one or more of the following grounds, namely—

(a) that he has used the land comprised in the tenancy in

a manner which renders it unfit for the purposes for which he held it;

- (b) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;
- (c) that a decree for arrears of rent in respect of the tenancy has been passed against him and has not been satisfied.

54. Grounds of ejectment of other tenants.—(1) A tenant not having a right of occupancy shall not be liable to ejectment from his tenancy except on any one or more of the following grounds, namely—

- (a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he holds it;
- (b) that he, where rent is payable in kind, has failed without sufficient cause to cultivate or arrange for cultivation of the land comprised in his tenancy in the manner or to the extent customary in the locality in which the land is situate;
- (c) that he, sublets the holding or part thereof for profit without the consent of the landlord;

Provided that a member of the Armed Forces, an un-married woman, or if married, divorced or separated from husband or a widow, a minor, a person suffering from physical or mental disability because of which he cannot cultivate the land himself, a person prosecuting studies in a recognized institution and a person under detention or imprisonment shall not be liable to ejectment because he sublets the holding or a part thereof without the consent of the land-lord;

- (d) that he holds his tenancy from a person who cultivated the land before joining the Armed Forces and wants to cultivate it himself on his ceasing to be a member of the Armed Forces;

Provided that such person shall be entitled to eject a tenant from such land upto a maximum of five acres.

Provided further that a tenant so ejected shall be restored to possession of the land if the land-lord after ejecting him does not within one year cultivate it himself;

- (e) that he fails to pay rent regularly without sufficient cause;
- (f) that the term of lease fixed by the Collector under section 48 has expired;
- (g) that the land owner under whom he holds his tenancy, having under his personal cultivation less than five acres of land desires to bring the land of the tenancy under his personal cultivation:

Provided that—

- (i) the landowner shall not be entitled to eject the tenant from more than a quarter of the lands of the tenancy;
- (ii) the total area of all lands under the personal cultivation of the landowner shall in no case exceed five acres;
- iii) the land-owner shall—
 - (a) within six months immediately after the commencement of this Act specify in the prescribed manner the land or lands of the tenancy from which he desires to eject the tenant; and
 - (b) within one year immediately after such commencement start proceedings for such ejectment:

Provided further that if the landowner does not bring the land under his personal cultivation within one year after such ejectment the tenant shall on application made in this behalf to the prescribed authority be restored to the possession of such land.

(2) Notwithstanding anything contained in sub-section (1) the Revenue-officer may, if the tenant gives notice to the land-lord for payment at the thrashing floor of the rent payable in kind and the land-lord fails to make arrangements for its collection within a fortnight of the receipt of the notice, appoint an agent to collect the rent at the thrashing floor on behalf of the land-lord at his expense.

PROCEDURE ON EJECTMENT

55. Restriction on ejectment.—A tenant shall not be ejected otherwise than in execution of decree for ejectment, except in the following cases, namely—

- (a) when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied ;
- (b) when he has been given the land by ejecting on or after the fifteenth day of August, 1952, a tenant to whom the provisions of clauses (a) to (g) of the last foregoing section, could not have been applied.

56. Application to Revenue-officer for ejectment.—In any such case as is mentioned in clause (a) of the last foregoing section the land-lord may apply to a Revenue-officer for the ejectment of the tenant.

57. Ejectment for failure to satisfy decree for arrear of rent.—(1) On receiving the application in any such case as is mentioned in clause (a) of section 55 the Revenue-Officer shall after such inquiry with respect to the existence of the arrear as he deems necessary, cause a notice to be served on the tenant, stating the date of the decree and the amount due thereunder, and informing him that if he does not pay that amount to the Revenue-officer within fifteen days from receipt of the notice he will be ejected from the land.

(2) If the amount is not so paid, the Revenue-officer shall subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant unless good cause is shown to the contrary.

58. Power to make rules.—The Financial Commissioner may make rules prescribing—

- (a) the form and language of application under the last foregoing section; and
- (b) the manner in which those applications are to be signed and attested.

GENERAL PROVISIONS RESPECTING EJECTMENT

59. Time for ejectment.—A decree or order for the ejectment of a tenant shall not be executed at any other time than between the first day of May and the fifteenth day of June (both days inclusive) unless the Court making the decree, or, where the order is made under section 57, the officer making the order, otherwise directs.

60. Relief against forfeiture.—(1) If in a suit for the ejectment of a tenant on either of the grounds mentioned in clauses (a) and (b) of section 53 or of section 54 it appears to the Court that the injury caused by the act or omission on which the suit is based is capable of being remedied, or that an award of compensation will be sufficient satisfaction to the land-lord therefor, the Court may, instead of making a decree for the ejectment of the tenant, order him to remedy the injury within a period to be fixed in the order, or order him to pay into Court, within such a period, such compensation as the Court thinks fit.

(2) The Court may from time to time, for special reasons extend a period fixed by it under sub-section (1).

(3) If within the period, or extended period as the case may be, fixed by the court under this section, the injury is remedied or the compensation is paid, a decree for the ejectment of the tenant shall not be made

61. Rights of ejected tenants in respect of crops and land prepared for sowing.—(1) Where at the time of the proposed ejectment of a tenant from any land his uncut or ungathered crops are standing on any part thereof, he shall not be ejected from that part until the crops have ripened and he has been allowed a reasonable time to harvest them.

(2) The Court or Revenue-officer decreeing or ordering the ejectment of the tenant may, on the application of the land-lord determine any dispute arising in consequence of the provisions of sub-section (1) between the land-lord and the tenant or between the land-lord and any person entitled to harvest the crops of the tenant and may in its or his discretion—

- (a) direct that the tenant pay for the longer occupation of the land secured to him under sub-section (1) such rent as may be fair and equitable; or
- (b) determine the value of the tenants uncut and ungathered crops, and, on payment thereof by the land-lord to the Court or Revenue-officer, forthwith eject the tenant.

(3) When a tenant for whose ejectment proceedings have been taken has, conformably with local usage, prepared for sowing any land comprised in his tenancy, but has not sown or planted crops on that land, he shall be entitled to receive from the land-lord before ejectment a fair equivalent in money for the labour and capital expended by him in so preparing the land, and the Court or Revenue-officer before which or whom the proceedings are pending shall, on the application of the tenant, determine the sum payable to the tenant under this sub-section and stay his ejectment until that sum has been paid to him.

RELIEF FOR WRONGFUL DISPOSSESSION

62 Relief for wrongful dispossession or ejectment.—If a tenant has been dispossessed without his consent from his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of any order under section 57 he may, within one year from the date of his dispossession or ejectment, make an application for recovery of possession or for compensation, or for both.

63. Penalty for wrongful dispossession.—Whoever dispossesses a tenant without his consent from his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of any order under section 57 shall be punishable by a Revenue Officer not below the rank of Assistant Collector 1st grade, with fine which may extend to Rs. 1,000.

64. Bar to civil suits.—No person whose application has been dismissed under section 62 may institute a suit in a civil court to contest his liability to ejectment, or to recover possession or occupancy rights, or to recover compensation.

65. Bar of relief by suit under section 9, Act 1 of 1877.—Possession of a tenancy or of any land comprised in a tenancy shall

not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant dispossessed thereof

POWER TO VARY DATES PRESCRIBED BY THIS CHAPTER

66. Power for State Government to fix dates for certain purposes.—(1) The State Government may, for all or any of the territories under its administration, by notification fix for the purposes of section 50 and 59 or of any of those sections any other dates instead of those specified therein.

(2) A notification under this section shall not take effect till after the expiration of six months from the date of the publication thereof.

CHAPTER VI

SUCCESSION

67. Succession to right of tenancy.—When a tenant in any land dies, the right shall devolve—

- (a) on his male lineal descendants, if any, in the male line of descent; and
- (b) failing such descendants, on his widow, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom; and
- (c) failing such descendants and widow, on his widowed mother, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom;
- (d) failing such descendants and widow, or widowed mother or, if the deceased tenant left a widow or widowed mother, then when her interest terminates under clause (b) or (c) of this sub-section, on his male collateral relatives in the male line of descent from the common ancestor of the deceased tenant and those relatives.

68. Irregular transfer.—Any transfer of the interest of a tenant except as permitted by the proviso to clause (c) of subsection (1) of section 54 shall be void.

CHAPTER VII

IMPROVEMENTS AND COMPENSATION

69. Title of tenants to make improvement.—A tenant is entitled to make improvements on his tenancy.

70. Improvements made before commencement of this Act.—Improvements made by a tenant before the commencement of this Act shall be deemed to have been made in accordance with this Act.

71. Improvements begun in anticipation of ejectment.—A tenant ejected in execution of a decree, or in pursuance of a notice of ejectment, shall not be entitled to compensation for any improvement begun by him after the institution of the suit, or service of the notice, which resulted in his ejectment.

72. Liability to pay compensation for improvements to tenant on ejectment or on enhancement of his rent.—Subject to the foregoing provisions of this Chapter, a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvement:

73. Compensation for disturbance of clearing tenants.—
(1) A tenant who has cleared and brought under cultivation waste land shall if ejected from that land, be entitled to receive from the land-lord as compensation for disturbance, in addition to any compensation for improvements a sum to be determined by a Revenue Court or Revenue-officer in accordance with the merits of the case, but not exceeding five years' rent of the land:

Provided that a tenant who is a joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejectment from the land or any part thereof.

(2) If rent has been paid for land by division or appraisement

of the produce or by rates fixed with reference to the nature of the crops grown, or if no rent, or no rent other than the land revenue of the land and the rates and cesses chargeable thereon, has been paid therefor, the compensation may be computed as if double the amount of the land revenue of the land were the annual rent thereof:

Provided that in any estate of which the assessment has been confirmed on or after the twenty-second day of February, 1929, the compensation may be computed as if four times the amount of the land revenue of the land were the annual rent thereof.

PROCEDURE IN DETERMINING COMPENSATION

74. Determination of Compensation by Revenue Courts.—(1) In every suit by a tenant to contest his liability to ejectment or by a land-lord to eject a tenant or to enhance his rent, the court shall direct the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance and of the grounds thereof.

(2) If the Court decrees the ejectment of the tenant or the enhancement of his rent, it shall determine the amount of compensation, if any, due to the tenant and shall stay execution of the decree until the land-lord pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant.

75. Determination of compensation by revenue-officers.—When a notice has been served on a tenant under section 57, a tenant may apply to the Revenue-officer having authority to order his ejectment under section 57, to determine the amount of compensation due to him for improvements or for disturbance, or for both, and the Revenue-officer shall determine, the amount, if any, accordingly and stay the ejectment of the tenant until the land-lord pays to the Revenue-officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue-officer to be due to the land-lord from the tenant.

76. Matters to be regarded in assessment of compensation for improvements.—In estimating the compensation to be awarded under this Chapter to a tenant for an improvement the Court or Revenue-officer shall have regard to—

- (a) the amount by which the value or the produce of the tenancy, or the value of that produce, is increased by the improvement;
- (b) the condition of the improvement and the probable duration of its effect;
- (c) the labour and capital required for the making of such an improvement;
- (d) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement; and
- (e) in the case of reclamation, or of the conversion of unirrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement.

77. Form of compensation.—(1) The compensation shall be made by payment in money unless the parties agree that it be made in whole or in part by the transfer of land or in some other way.

(2) If the parties so agree, the Court of Revenue officer shall make an order accordingly.

RELIEF IN CASE OF EJECTMENT BEFORE DETERMINATION OF COMPENSATION

78. Relief in case of ejectment before determination of compensation.—(1) If from any cause the amount of compensation payable to a tenant—

- (a) under this chapter for improvements or disturbance; or
- (b) under section 61 for the value of uncut or ungathered crops or the preparation of land for sowing;

has not been determined before the tenant is ejected, the ejectment shall not be invalidated by reason of the omission, but the Court or Revenue officer which decreed or who ordered the ejectment may, on application made by the tenant within one year from the date of the ejectment, correct the omission by making in favour of the

tenant an order for the payment to him by the land-lord of such compensation as the Court or Officer may determine the tenant to be entitled to.

(2) An order made under sub-section (1) may be executed in the same manner as a decree for money may be executed by a Revenue Court.

CHAPTER VIII

ASSUMPTION OF MANAGEMENT AND ACQUISITION BY THE STATE

79. Power of State Government to make rules relating to efficient cultivation and management.—(1) With a view to bring the agricultural economy to a higher level of efficiency, the State Government may, by rules, prescribe standards of efficient cultivation and management.

(2) Such rules may provide for the issue of directions as regards the methods of agriculture to be adopted, the use of improved seeds, sale of surplus foodgrains and for ensuring proper wages and terms of employment of agricultural workers, maintenance of regular and accurate accounts in respect of cultivation, and such other directions as may be necessary or desirable for the efficient utilisation of lands.

(3) Such rules shall apply in respect of any person who as landowner cultivates land personally, or owns land not let to a tenant, the area of which in either case, in the District of Chamba exceeds thirty acres or the annual land-revenue of which in either case, in the rest of Himachal Pradesh exceeds Rs. 125.

(4) For the purposes of this section a person who cultivates a holding jointly with another or others shall be deemed to cultivate the land which appertains to his share in such holding.

80. State management of lands in certain cases.—(1) Notwithstanding any law, custom or contract to the contrary, the State Government or any officer or authority authorised by the State Government in this behalf may, from the date notified in the Gazette, and subject to the provisions of sub-section (3) as to the payment of

compensation, assume for a public purpose the management of so much of the land held by persons referred to in sub-section (3) of section 79 as in the District of Chamba exceeds thirty acres in area and in the rest of Himachal Pradesh is assessed to annual land revenue exceeding Rs. 125 unless in the opinion of the State Government or the officer or authority, as the case may be, such land is so efficiently cultivated and managed that its break-up will lead to a fall in production.

Explanation.—In this section, “public purpose” includes settlement of landless cultivators, development of co-operative organisations and increasing the efficiency of management:

Provided that a declaration by the State Government that the land is required for a public purpose shall be conclusive evidence that the land is so required.

(2) Where in the opinion of the State Government or an officer or authority authorised by the State Government in this behalf, the cultivation of land by a person referred to in sub-section (3) of section 79 falls below the standards prescribed under sub-section (2) of the said section, the State Government or such officer or authority may, subject to the provisions of sub-section (5) as to the payment of compensation assume the management of the entire holding or so much of the land of such person as in the District of Chamba exceeds thirty acres in area and in the rest of Himachal Pradesh, is assessed to annual land revenue exceeding Rs. 125.

(3) Before assuming the management, the State Government or the officer or authority authorised by the State Government shall give three months' notice in writing to the person concerned of the intention to do so, and consider any representation he may make within the period allowed in the notice.

(4) After considering such representation, if any, the State Government or the Officer or authority authorised by the State Government, shall communicate in writing to the person concerned the decision thereon and publish the decision in the manner prescribed.

(5) The amount of compensation payable for assumption of management of any land under this section shall consist of an annual payment equal to the maximum annual rent determined under

section 39 payable in respect of such land.

(6) Notwithstanding anything in sub-section (1) or sub-section (2) the area of an orchard shall be taken into consideration for purposes of sub-section (1) or sub-section (2) but it shall not be broken up in the process of assumption of management and the entire area of an orchard shall be left with the landowner if its area in District of Chamba exceeds thirty acres or its annual land revenue in the rest of Himachal Pradesh exceeds Rs. 125

81. Lease of lands of which management has been assumed.—In leasing out the land of which management is assumed under section 80 preference shall be given in the following order, namely—

- (1) a co-operative farming society,
- (2) an agricultural worker working on the said land,
- (3) a landowner or tenant who cultivates personally less than five acres of land,
- (4) a landless person who ordinarily resides in the village.

82. Right of lessee to purchase land leased out to him.—

(1) Any person to whom land assumed for management under section 80 is leased shall be entitled to purchase such land on payment of compensation to the landowner.

(2) The compensation payable under sub-section (1) shall in the case of—

- (i) land which was not under cultivation in any of the six agricultural years previous to the date of purchase, be equal to four times the annual land revenue payable therefor, and
- (ii) land which was under cultivation in any of the six agricultural years previous to the date of such purchase, be equal to fortyeight times the annual land revenue payable therefor.

83. Vesting of proprietary rights in the State Government.—(1) Notwithstanding anything contained in this Chapter,

the State Government may, by a notification in the Gazette, declare that with effect from such date and in respect of such area or areas as may be specified in the notification, all rights, title and interests including contingent interests, if any, recognised by law, custom or usage for the time being in force, of each landowner in land to which section 80 applies shall be extinguished and such rights, title and interest shall be deemed to vest in the State Government free from all incumbrances.

(2) It shall be lawful for the State Government if it so considers necessary, to issue from time to time, the notification referred to in sub-section (1) in respect of such area or areas as may be specified therein and all the provisions of sub-section (1) shall be applicable to and in the case of every such notification.

(3) Notwithstanding anything in sub-section (1), the area of an orchard shall be taken into consideration for purposes of sub-section (1) but it shall not be broken up in the process of acquisition of the rights, title and interests of the landowners and the entire area of orchard shall be left with the landowner even if its area in the District of Chamba exceeds thirty acres or its annual land revenue in the rest of Himachal Pradesh exceeds Rs. 125.

84. Consequences of the vesting in the State Government.—(1) When a notification under section 83 has been published in the Gazette notwithstanding anything contained in any contract or document or in any other law for the time being in force and save as otherwise provided in this Act, the consequences as hereinafter set forth shall, from the beginning of the date of vesting ensue in respect of the land to which the notification applies, namely —

(a) all rights, title and interest of all the landowners—

(i) in every such land including cultivable or barren land, ghasnis, charands, trees, wells, tanks, ponds, water channels, ferries, pathways, hats, bazaars and melas, and

- (ii) in all sub-soil in such land including rights, if any, in mines and minerals, whether being worked or not, shall cease and be vested in the State Government free of all encumbrances;
- (b) all arrears of revenue, cesses or other dues in respect of any land so vested and due from the landowner for any period prior to the date of vesting, shall continue to be recoverable from such landowner and may without prejudice to any other mode of recovery be realised by deducting the amount from the compensation money payable to such landowner under the Act;
- (c) all amounts due from the landowner to the State under the land Improvement Loans Act, 1883, or the Agricultural Loans Act, 1884, shall, notwithstanding anything contained in the said enactments, become due forthwith and may without prejudice to any other mode of recovery provided therefor, be realised by deducting the amount from the compensation money payable to such landowner under the Act;
- (d) the interest of such landowner so vested shall not be liable to attachment or sale, in execution of any decree or for process of any court, civil or revenue, and any attachment existing at the date of vesting or any order for attachment passed before such date shall, subject to the provisions of section 73 of the Transfer of Property Act, 1882, cease to be in force;
- (e) (i) every mortgage with possession existing in such land or of such land on the date immediately preceding the date of vesting shall, to the extent of the amount secured on such land or part thereof, be deemed without prejudice to the rights of the State Government under section 81 to have been substituted by a simple mortgage;
- (ii) notwithstanding anything contained in the mortgage

deed or in any other agreement, the amount declared due on a simple mortgage substituted under sub-clause (i) shall carry such rate of interest and from such date as may be prescribed;

- (f) no claim or liability enforceable or incurred before the date of vesting by or against such landowner for any money, which is charged or is secured by a mortgage of such land or part thereof, shall, except as provided in section 73 of the Transfer of Property Act, 1882, be enforceable against his interest in such land.

85. Contract or agreement to defeat the provisions of this Act to be void.—Any contract or agreement made between the landowner and any other person on or after the 1st of April, 1952, which has the effect of directly or indirectly preventing the vesting of any land of the landowner in the State Government or to defeat any other provision of this Chapter shall become void from the date of vesting.

86. Collector to take over estates.—Upon the publication of the notification under section 83, it shall be lawful for the Collector or any officer appointed by him in this behalf —

- (a) to take charge of any land or part thereof to which the notification applies and of all interests vested in the State Government under the provisions of this Act and to take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of the Collector or the officer so appointed, be necessary for this purpose;
- (b) to enter upon any land, building or other place forming part of any land acquired under the provision of this Chapter and make a survey or take measurement thereof or do any other act which he considers necessary for carrying out the purposes of this Act;
- (c) to require any person to produce before such authority as may be specified, any books, accounts or other documents relating to any estate or part thereof and to furnish to

such authority such other information as may be specified or demanded; and

- (d) if the books, accounts and other documents are not produced as required, to enter upon any land, building or other place and seize and take possession of such books, accounts and other documents.

87. Land-owner to receive compensation for acquisition.— Every landowner whose rights, title or interest in any land are acquired by the State Government under the provisions of this Chapter or in pursuance of any agreement between the State Government and the landowner in this behalf shall be entitled to receive and be paid compensation as hereinafter provided.

88. Date from which compensation shall be due.— (1) Compensation for acquisition of land under this Act shall be due as from the date of vesting subject to the determination of the amount thereof.

(2) There shall be paid by the State Government on the amount so determined interest at the rate of two and a half per cent per annum from the date of vesting to the date of—

- (i) determination, in the case of amount to be paid in cash,
- (ii) redemption, of the bonds in the case of the amount to be given in bonds.

89. Interim compensation.— (1) The State Government may direct payment of interim compensation to such extent and in such manner as may be prescribed:

Provided that, if the compensation payable to a landowner is not determined in accordance with the provision of this Act before the expiry of nine months, from the date of vesting, the State Government shall, on the application of the landowner concerned direct the payment of such interim compensation.

(2) Where the right and title in any land or part thereof is claimed by any person, the interim compensation in respect of such land or part shall be paid to person, in the revenue records as landowner

subject to such orders as are passed by the compensation officer with regard to the security for the refund of such compensation or part thereof to which the objector may ultimately be entitled.

90. Adjustment of interim compensation.—The interim compensation paid under section 89 shall be deemed to be part of the compensation payable under this Act and shall be deducted from and adjusted against it.

91. Proceedings relating to assessment and payment of compensation.—All proceedings relating to assessment of compensation for any land acquired under section 83 and payment thereof to the landowner entitled thereto shall be had before the compensation officer within whose jurisdiction the land acquired is situate.

92. Right to establish claim in the civil court.—Nothing in this Act shall affect the right of any person to establish his claim in respect of any land or part thereof by due process of law in the court having jurisdiction.

93. Partition after 1st April, 1952.—Notwithstanding any partition made on or after the first day of April, 1952, a joint family shall be deemed to be joint for the purpose of this Chapter.

94. Draft compensation assessment roll.—With a view to the assessment and payment of compensation under this Chapter, the compensation officer shall in the manner prescribed prepare a draft compensation assessment roll of every landowner whose land has vested in the State in respect of his interest showing—

- (a) the total area owned or held by the land-owner ;
- (b) the total area acquired ;
- (c) in respect of the area acquired —
 - (i) the land revenue payable for land which in any of the six agricultural years previous to the date of vesting was not under cultivation,
 - (ii) the land revenue payable for land which in any of the six agricultural years previous to the date of vesting was under cultivation,

- (d) the compensation payable for the land acquired which in the case of land mentioned in sub-clause (i) of clause (c) shall be equal to four times the annual land revenue payable therefor, and in the case of land mentioned in sub-clause (ii) of clause (c) shall be equal to fortyeight times the annual land revenue payable therefor;
- (e) the amounts referred to in clause (b) or (c) of section 84; and
- (f) such other particulars as may be prescribed.

95. Order of Compensation Officer to be deemed to be a decree of the civil court.—The order of the compensation officer deciding objections regarding entries in the Compensation Assessment Roll shall be deemed to be a decree of the civil court and shall contain a concise statement of the case, the points for determination, the decision thereon and the reasons for such decisions.

96. Final Compensation Assessment Roll.—(1) Where no objection has been filed in regard to the draft Compensation Assessment Roll or where such objections are filed and have been finally disposed of and the draft Compensation Assessment Roll amended, altered or modified accordingly, the Compensation Officer shall sign the same and also affix his seal thereto.

(2) The Compensation Assessment Roll when so signed and sealed shall become final.

97. Injunction by a civil court barred.—Except a court or authority before whom an appeal under this Chapter is pending against an order or decree of the Compensation Officer, no court or authority shall, notwithstanding anything contained in any law, issue any injunction against any person in respect of any proceedings pending before the Compensation Officer under this Chapter which has the effect of staying the proceedings.

98. Land-owner to receive compensation.—Subject to the provisions of section 103 the compensation payable under this Act shall be paid to the land-owner whose name is entered in the compensation roll.

99. Compensation payable to the legal representative.—

Where the person entitled to the compensation dies before it is paid to him., it shall be paid to his legal representative.

100. Form of satisfaction of compensation.—The compensation payable under this Act shall be given in cash or in bonds or partly in cash or partly in bonds as may be prescribed.

101. Deposit of the compensation money with Bank or other authority in certain cases.—(1) Where the person entitled to receive the compensation is a trust or endowment or a minor or a person suffering from some legal disability or a limited owner, the compensation may, notwithstanding anything contained in any law but subject to any general directions that the State Government may give, be deposited for and on behalf of the person with the Collector or with a Bank selected by the State Government for this purpose.

(2) Nothing in sub-section (1) shall be deemed to prejudice the rights of a person for whom or on whose behalf the compensation has been deposited to utilise and dispose of the same in accordance with the law governing such right.

102. Compensation money to be placed at the disposal of the court or authority.—Where before any court or authority any suit or proceeding is pending which directly or indirectly affects or is likely to affect the right of any person to receive the whole or part of the compensation determined under this Act, the court or authority may require the compensation officer to place at its disposal the amount so payable and thereupon the same shall be disposed of in accordance with the orders of such court or authority.

103. Inquiry into the validity of transfer in respect of land.—The compensation officer may enquire into the validity of any transfer in respect of any land made in favour of or by or on behalf of the landowner claiming compensation, or interim compensation in contravention of the provisions of this Act and in declaring the amount due to the applicant on account of the

compensation or the interim compensation he shall not take into account such transfer.

104. Appeal.—An appeal shall lie to the District Judge from any order of the compensation officer and a second appeal from the decision of the District Judge shall lie to the Judicial Commissioner.

105. Revision.—The Judicial Commissioner may for the purpose of satisfying himself that the order of the District Judge deciding the appeal under section 104 was according to law, call for the record and pass such order with respect to the case as he thinks fit.

106. Limitation.—The period of limitation for appeal under section 104 shall run from the date of the order or appeal and shall be as follows:

- (a) when the appeal lies to the District Judge—45 days;
- (b) when the appeal lies to the Judicial Commissioner—90 days.

107. Computation of period of limitation.—In the computation of the period of limitation for an appeal from an order under this Act the limitation therefor shall be governed by the provisions of the Indian Limitation Act, 1908.

108. Power to make rules.—(1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) proceedings prior to the vesting of land;
- (b) matters relating to the taking over of land;
- (c) the form and the manner in which the compensation assessment roll shall be prepared and the matters relating to the compensation assessment roll;
- (d) the procedure to be followed in placing the amount of compensation at the disposal of the court or authority.

CHAPTER IX

JURISDICTION AND PROCEDURE

JURISDICTION

109. Revenue-officers.—(1) There shall be the same classes of Revenue-officers under this Act as under the Punjab Land Revenue Act, 1887 as in force in Himachal Pradesh immediately before 26th January, 1950 and in the absence of any order of the State Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under that Act shall be a Revenue-officer of the same class having jurisdiction within the same local limits under this Act.

(2) The expressions “Collector” and “Financial Commissioner” have the same meaning in this Act as in the Punjab Land Revenue Act, 1887 as in force in Himachal Pradesh immediately before 26th January, 1950.

110. Application and proceedings cognizable by Revenue-officers.—(1) The following applications and proceedings shall be disposed of by Revenue-officers as such, and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had:—

FIRST GROUP

- (a) proceedings under Section 40 for the adjustment of rent expressed in terms of the land revenue;
- (b) proceedings relating to the remission and suspension of rents under Section 43;
- (c) applications under Section 56 for the ejectment of a tenant against whom a decree for an arrear of rent in respect of his tenancy has been passed and remains unsatisfied;
- (d) applications under section 62 for recovery of possession or for compensation or for both;
- (e) proceedings under Chapter VII with respect to the award of compensation for improvements or disturbance;

SECOND GROUP

- (f) applications under section 33 with respect to the division or appraisement of produce;

(g) applications for the determination—

- (i) under section 61 of the rent payable for land occupied by crops uncut or ungathered at the time of an order being made for the ejectment of a tenant;
- (ii) under Section 61 or Section 78 of the value of such crops or of the sum payable to the tenant for labour and capital expended by him in preparing land for sowing;

THIRD GROUP

- (h) applications under Section 44 by tenants to deposit rent;
- (i) applications under Section 50 for service of notice of relinquishment.

(2) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf—

- (a) a Collector or an Assistant Collector of the first grade may dispose of any of the applications and proceedings mentioned in sub-section (1) ;
- (b) an Assistant Collector of the second grade, not being a Naib-Tehsildar, may dispose of any of the applications mentioned in the second and third groups of that sub-section, and
- (c) a Naib-Tehsildar, when invested with the powers of an Assistant Collector of the second grade, may dispose of any of the applications mentioned in the third group of that sub-section.

111. Revenue courts and suits cognizable by them.—(1)

When a Revenue-officer is exercising jurisdiction with respect to any such suit as is described in sub-section (3), or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court.

(2) There shall be the same classes of Revenue Courts as of Revenue-officers under this Act, and, in the absence of any order of

the State Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under this Act shall be a Revenue Court of the same class having jurisdiction within the same local limits.

(3) The following suits shall be instituted in and heard and determined by Revenue Courts, and no other courts shall take cognizance of any dispute or matter with respect to which any suit might be instituted:—

FIRST GROUP

- (a) suits between landlord and tenant for enhancement or reduction of rent under Section 37 ;
- (b) suits between land-lord and tenant for addition to or abatement of rent under Section 41 or for commutation of rent ;
- (c) suits under Section 47 for the determination of rent or other sum on the expiration of the term of an assessment of land revenue ;

SECOND GROUP

- (d) suits by a tenant to establish a claim to a right of occupancy, or by land-lord to prove that a tenant has not such a right ;
- (e) suits by a landlord to eject a tenant ;
- (f) suits by a landlord to set aside a transfer of a right of tenancy, or to dispossess a person to whom such a transfer has been made, or for both purposes ;
- (g) any other suit between landlord and tenant arising out of the conditions on which a tenancy is held ;
- (h) suit for sums payable on account of village expenses ;
- (i) suits by a co-sharer in an estate or holding for a share or profits thereof or for a settlement of accounts ;
- (j) suits for the recovery of over-payments of rent or land revenue or of any other demand for which a suit lies in a Revenue Court under this sub-section ;

- (k) suits relating to the emolument of village officer;

THIRD GROUP

- (l) suits by a landlord for arrears of rent or for the money equivalent of rent or for sums recoverable under Section 30;
- (m) suits by a landowner to recover money claimed as due for the enjoyment of rights in or over land or in water including right of irrigation, rights over fisheries, rights of pasturage and forest rights;
- (n) suits for sums payable on account of land revenue or of any other demand recoverable as an arrear of land revenue under any enactment for the time being in force.

PROCEDURE WHERE REVENUE MATTER IS RAISED IN A CIVIL COURT

- (4) Notwithstanding anything contained in sub-section (3)—

- (i) where in a suit cognizable by and instituted in a Civil Court it becomes necessary to decide any matter which can under this sub-section be heard and determined only by a Revenue Court, the Civil Court shall endorse upon the plaint the nature of the matter for decision and the particulars required by Order VII, Rule 10, Civil Procedure Code 1908 and return the plaint for presentation to the Collector;
- (ii) on the plaint being presented to the Collector, the Collector shall proceed to hear and determine the suit where the value thereof exceeds Rs. 1,000 or the matter involved is of the nature mentioned in Section 111 (3) first group of this Act and in other cases may send the suit, to an Assistant Collector of the first grade for decision.

- (5) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf—

- (a) a Collector may hear and determine any of the suits mentioned in sub-section (3);
- (b) an Assistant Collector of the first grade may hear and determine any of the suits mentioned in the second and

third groups of that sub-section, and, if he has by name been specially empowered in this behalf by the State Government any of the suits mentioned in the first group; and

- (c) an Assistant Collector of the second grade may hear and determine any of the suits mentioned in the third group.

112. Superintendence and control of Revenue Officers and Revenue Courts.—(1) The general superintendence and control over all other Revenue-officers and Revenue Courts shall be vested in, and all such officers and Courts shall be subordinate to the Financial Commissioner.

(2) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner, if any, shall control all other Revenue-officers and Revenue Courts in his division.

(3) Subject as aforesaid and to the control of the Commissioner or a Financial Commissioner, as the case may be, Collector shall control all other Revenue-officers and Revenue Courts in his District.

113. Power to distribute business and withdraw and transfer cases.—(1) The Financial Commissioner or a Commissioner or Collector may by a written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue-officer or Revenue Court under his control.

(2) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer or Revenue Court under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer or Revenue Court under his control.

(3) An order under sub-section (1) or sub-section (2) shall not empower any Revenue-officer or Revenue Court to exercise any power or deal with any business which he or it would not be competent to exercise or deal with within the local limits or his of its own jurisdiction.

APPEAL, REVIEW AND REVISION

114. Appeals.—Subject to the provisions of this Act and the

rules thereunder an appeal shall lie from an original or appellate order or decree made under this Act by a Revenue-officer or Revenue Court, as follows, namely—

- (a) to the Collector when the order or decree is made by an Assistant Collector of either grade;
- (b) to the Commissioner or the Financial Commissioner, if there is no Commissioner or when the order or decree is made by a Collector;
- (c) to the Financial Commissioner when the order or decree is made by a Commissioner, if any:

Provided that —

- (i) an appeal from an order or decree made by an Assistant Collector of the first grade specially empowered by name in that behalf by the State Government in a suit mentioned in the first group of sub-section (3) of Section 111 shall lie to the Commissioner or to the Financial Commissioner, if there is no Commissioner and not to the Collector;
- (ii) when an original order or decree is confirmed on first appeal, a further appeal shall not lie;
- (iii) when any such order or decree is modified or reversed on appeal by the Collector the order or decree made by the Commissioner on further appeal, if any, to him shall be final.

115. Limitation for appeals.—The period of limitation for an appeal under the last foregoing section shall run from the date of the order or decree appealed against, and shall be as follows, that is to say—

- (a) when the appeal lies to the Collector—thirty days;
- (b) when the appeal lies to the Commissioner—sixty days;
- (c) when the appeal lies to the Financial Commissioner—ninety days.

116. Review by Revenue-officers.—(1) A Revenue-officer, as such may either of his own motion or on the application of any

party interested, review, and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessors in office:

Provided as follows:—

- (a) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed and when the Revenue-officer of a class below that of Collector proposes to review any order whether passed by himself or by any of his predecessor in office, he shall first obtain the sanction of the Revenue-officer, to whose control he is immediately subject;
- (b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period;
- (c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;
- (d) an order against which an appeal has been preferred shall not be reviewed.

(2) For the purpose of this section the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(3) An appeal shall not lie from an order refusing to review, or confirming on review, a previous order.

117. Computation of period limited for appeals and applications for review.— In the computation of the period for an appeal from or an application for the review of, an order under this Act, the limitation therefor shall be governed by the Indian Limitation Act, 1908.

118. Power to call for, examine and revise proceedings of

Revenue-officers and Revenue Courts.—(1) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court subordinate to him.

(2) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court under his control.

(3) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or the order or decree made should be modified or reversed, he shall submit the record with his opinion on the case for the orders of the Financial Commissioner.

(4) If, after examining a record called for by himself under sub-section (1) or submitted to him under sub-section (3), the Financial Commissioner is of opinion that it is inexpedient to interfere with the proceedings or the order or decree, he shall pass an order accordingly.

(5) If, after examining the record, the Financial Commissioner is of opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the Judicial Commissioner's Court in the exercise of its revisional jurisdiction may, under the law for the time being in force, interfere with the proceedings or an order or decree of a Civil Court, he shall fix a day for hearing the case and may on that or any subsequent day to which he may adjourn the hearing or which he may appoint in this behalf, pass such order as he thinks fit in the case.

(6) Except when the Financial Commissioner fixes under sub-section (5) a day for hearing the case, no party has any right to be heard before the Financial Commissioner when exercising his powers under this section.

PROCEDURE

119. Procedure of Revenue-Officers.—(1) The State Government may make rules consistent with this Act for regulating

the procedure of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act.

(2) The rules may provide among other matters, for the mode of enforcing orders of ejectment from and delivery of possession of immovable property and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from or delivery of possession of, such property.

(3) The rules may also provide for the mode of executing orders as to cost, and may adapt to proceedings under this Act all or any of the provisions of the Punjab Land Revenue Act, 1887, as in force in Himachal Pradesh immediately before 26th, January, 1950 with respect to arbitration.

(4) Subject to the rules under this section a Revenue-officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report.

120. Persons by whom appearances may be made before Revenue-officers as such and not as Revenue Courts.—(1) Appearances before a Revenue-officer as such, and applications to and acts to be done before him, under this Act may be made or done—

- (a) by the parties themselves; or
- (b) by their recognized agents or a legal practitioner:

Provided that the employment of a recognised agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

(2) For the purposes of sub-section (1) recognized agents shall be such persons as the State Government may by notification declare in this behalf.

(3) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue-officer under this Act

unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

121. Costs.—(1) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit.

(2) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

122. Procedure of Revenue Courts.—(1) The State Government may make rules consistent with this Act for regulating the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed thereby, and may by any such rule, direct that any provisions of the Code of Civil Procedure, 1908, shall apply, with or without modification, to all or any classes of cases before those Courts.

(2) Until rules are made under sub-section (1) and subject to those rules when made and to the provisions of this Act—

(a) the Code of Civil Procedure, 1908, shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree; and

(b) the Financial Commissioner shall, in respect of those proceedings, be deemed to be the High Court within the meaning of that Code, and shall, subject to the provisions of this Act, exercise as regards the Courts under his control, all the powers of a High Court under the Code.

123. Power of Revenue Officer or Revenue Court to summon persons.—(1) A Revenue-officer or Revenue Court may summon any person whose attendance he or it considers necessary for the purpose of any application, suit or other business before him or it as a Revenue-officer or Revenue Court.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognised agent or legal practitioner.

(3) The person attending in obedience to the summons shall

be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue officer or Revenue Court may require.

124. Mode of service of summons.—(1) A summons issued by a Revenue-officer or Revenue Court shall, if practicable, be served (a) personally on the person to whom it is addressed, or failing him on (b) his recognised agent or (c) an adult male member of his family who is residing with him.

(2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue-officer is employed or the Revenue Court is held, and the case to which the summons relates has reference to land in that District, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(3) If the summons relates to a case in which person having the same interest are so numerous that the personal service on all of them is not reasonably practicable, it may, if the Revenue-officer or Revenue Court so directs, be served by delivery of a copy thereof to such of those persons as the Officer or Court nominates in this behalf and by proclamation of the contents thereof for the information of the other persons.

(4) A summons may, if the Revenue-officer or Revenue Court so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person registered under Part III of the Indian Post Office Act, 1898.

(5) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered the officer or Court may presume that the summon was served at the time when the letter would be delivered in the ordinary course of post.

125. Mode of service of notice, order or proclamation or copy thereof.—A notice, order or proclamation, or copy of any such document issued by a Revenue-officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

126. Additional mode of publishing proclamation.—When a proclamation relating to any land is issued by a Revenue-officer or Revenue Court, it shall in addition to any other mode of publication which may be prescribed by any enactment for the time being in force be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

127. Joinder of tenants as parties to proceedings relating to rent.—(1) Any number of tenants cultivating in the same estate may, in the discretion of the Revenue-officer or Revenue Court and subject to any rules which the State Government may make in this behalf, be made parties to any proceeding under Chapter IV.

(2) But a decree or order shall not be made in any such proceedings unless the Revenue-officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard.

(3) A decree or order made in any such proceedings shall specify the extent to which each of the tenant is affected thereby.

128. Exception of suits under this Act from operation of certain enactments.—Nothing in Section 80 of the Code of Civil Procedure, 1908, (Act V of 1908) or similar provision in any laws in force for the administration of local bodies including Panchayats shall be construed to apply to a suit of a class mentioned in Section 111 of this Act.

129. Payment into Court of money admitted to be due to a third person.—(1) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded by it, refuse to take cognizance of the plea

unless the defendant pays into Court the amount so admitted to be due.

(2) Where such a payment is made the Court shall forthwith cause notice of the payment to be served on the third person.

(3) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment of the money, it shall be paid to the plaintiff on his application to the Court therefor.

(4) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (3).

(5) When a defendant pays money into Court under this Section the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

130. Execution of decrees for arrears of rent.—A Court passing a decree for arrear of rent may, on the oral application of the decree holder, order execution thereof against the movable property of the tenant, and against any uncut or ungathered crops on the tenancy in respect of which the arrear is decreed.

131. Prohibition of imprisonment of tenants in execution of decrees for arrears of rent.—A tenant shall not during the continuance of his occupancy be liable to imprisonment on the application of his land-lord in execution of a decree for an arrear of rent.

132. Power to refer party to Civil Court.—(1) If, in any proceeding pending before a Revenue Court exercising original, appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject, require by order in writing, any party to the proceeding to institute within such time as it may fix in this behalf a suit in the Civil Court for the purpose of obtaining a decision on the question and, if he fails to comply

with the requisition, may decide the question as it thinks fit.

(2) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of first instance or appeal, as the case may be.

133. Power to refer to judicial Commissioner's Court questions as to jurisdiction.—(1) If the presiding officer of a Civil Court or Revenue Court in which a suit has been instituted doubts whether he is precluded from taking cognizance of the suit, he may refer the matter through the District Judge or Financial Commissioner or if he is a District Judge or Commissioner or Financial Commissioner directly to the Judicial Commissioner's Court

(2) On any such reference being made, the Judicial Commissioner's Court may order the presiding officer either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

(3) The order of the Judicial Commissioner's Court on any such reference shall be conclusive as against persons who are not parties to the suit as well as against persons who are parties thereto.

134. Power of Judicial Commissioner's Court to validate proceedings held under mistake as to jurisdiction.—(1) In either of the following cases, namely—

(a) if it appears to a Civil Court that a Court under its control has determined a suit of a class mentioned in Section 111 which under the provisions of that section should have been heard and determined by a Revenue Court, or

(b) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court,

the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the Judicial Commissioner's Court.

(2) If on perusal of the record it appears to the Judicial Commi-

ssioner's Court that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the Judicial Commissioner's Court may order that the decree be registered in the Court which had jurisdiction.

(3) If it appears to the Judicial Commissioner's Court otherwise than on submission of a record under sub-section (1), that a Civil Court under its control has determined a suit of a class mentioned in section III which under the provisions of that Section should have been heard and determined by a Revenue Court, the Judicial Commissioner's Court may pass an order which it might have passed if the record had been submitted to it under that sub-section.

(4) With respect to any proceeding subsequent to decree the Judicial Commissioner's Court may make such order for its registration in a Revenue Court or Civil Court as in the circumstances appears to be just and proper.

(5) An order of the Judicial Commissioner's Court under this section shall be conclusive as against persons who were not parties to the suit or proceeding as well as against persons who were parties thereto, and the decree or proceeding to which the order relates shall have effect as if it had been made or had by the Court in which the order was required to be registered.

MISCELLANEOUS

135. Place of Sitting.—(1) An Assistant Collector may exercise his powers under this Act at any place within the limits of the District in which he is employed.

(2) Any other Revenue-officer or Revenue Court may only exercise his or its powers under this Act within the local limits of his or its jurisdiction.

136. Holidays — (1) The Financial Commissioner, with the approval of the State Government, shall publish in the official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers and Revenue Courts.

(2) A proceeding held before a Revenue-officer or Revenue Court

on a day specified in the list as a day to be observed by the Officer or Court as a holiday shall not be invalid by reason only of its having been held on that day.

137. Discharge of duties of Collector dying or being disabled.—When a Collector dies or is disabled from performing his duties, the Officer who succeeds temporarily to the chief executive administration of the District under any orders which may be generally or specially issued by the State Government in this behalf shall be deemed to be Collector under this Act.

138. Retention of powers by Revenue-officers on transfer.—When a Revenue-officer of any class who, either as such or as a Revenue Court, has under the foregoing provisions of this Act any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer or Revenue Court of the same or a higher class, he shall continue to exercise those powers in that other local area, unless the State Government otherwise directs or has otherwise directed.

139. Conferment of powers of Revenue-officer or Revenue Court.—(1) The State Government may by notification confer on any person—

- (a) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act; or
- (b) all or any of the powers with which an Assistant Collector of either grade is, or may be, invested thereunder,

and may by notification withdraw any powers so conferred.

(2) A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits and in such classes of cases as the State Government may direct and, except as otherwise directed by the State Government, shall for all purposes connected with the exercise thereof be deemed a Financial Commissioner, Commissioner, Collector, or Assistant Collector, as the case may be.

(3) Before conferring powers on the Judge of a Civil Court under sub-section (1), the State Government shall consult the Judicial Commissioner's Court.

(4) If any of the powers of a Collector under section 112, section 113, section 114 or section 116 are conferred on an Assistant Collector they shall, unless the State Government by special order otherwise directs, be exercised by him, subject to the control of the Collector.

140. Power of State Government to make Rules.—The State Government may, by notification in the official Gazette, make rules prescribing—

- (a) the forms and manner in which an application for reservation of land up to the prescribed limit may be made by the land-lord or the tenant ;
- (b) the form of notice and the manner in which notices may be served ;
- (c) the manner in which inquiries may be held ; and
- (d) the manner in which the compensation may be paid.

141. Power of Financial Commissioner to make rules.—(1) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules consistent with this Act and any other enactment for the time being in force,—

- (a) determining notwithstanding anything in any record of rights, the number and amount of the instalments and the times by and at which rent is to be paid ;
- (b) prescribing the form and manner of notice to be given by the tenant to the landlord for payment at the thrashing floor of the rent payable in kind ;
- (c) for the guidance of Revenue-officers in determining for the purposes of this Act, the amount of the land revenue of any land ;
- (d) prescribing for all or any of the territories to which this Act extends, the periods during which in proceeding held under this Act, a Revenue-officer or Revenue Court is not except for reasons of urgency to be recorded, to issue any process of arrest against a tenant or against a land-owner who cultivates his own land ;

- (e) regulating the procedure in cases where persons are entitled to inspect records of Revenue-officer or Revenue Courts, or to obtain copies of the same and prescribing the fees payable for searches and copies;
- (f) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in Revenue offices or Revenue Court or submitted to any authority ;
- (g) declaring what shall be the language of any of those offices and Courts; and
- (h) generally for the guidance of Revenue-officers and other persons in matters connected with the enforcement of this Act.

(2) Until rules are made under clause (a) of sub-section (1) rent shall be payable by the instalments and at the times by and at which it is payable at the commencement of this Act.

(3) Rules made by the Financial Commissioner under this or any other section of this Act shall be made subject to the control of the State Government.

142. Rules to be made after previous publication.—The power to make any rules under this Act is subject to the condition of the rules being made after previous publication.

143. Powers exercisable by Financial Commissioner from time to time.—All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

144. Bar to legal proceedings.—No prosecution, suit or other legal proceedings shall lie against the State Government or any officer or authority for anything which is not in good faith done or intended to be done in pursuance of the provisions of this Act or any rules made thereunder.

CHAPTER X

EFFECT OF THIS ACT ON RECORDS OF RIGHTS AND AGREEMENTS

145. Nullity of certain entries in record of rights.—An

entry in any record of rights providing —

- (a) that a land-lord may prevent a tenant from making or eject him for making, such improvements on his tenancy as he is entitled to make under this Act ;
- (b) that a tenant ejected from his tenancy shall not be entitled to compensation for improvements or for disturbance in any case in which he would under this Act be entitled to compensation therefor ; or
- (c) that a land-lord may eject a tenant otherwise than in accordance with the provisions of this Act ;
shall be void to that extent.

146. Nullity of certain agreements contrary to the Act.—

(1) Nothing in any agreement made between a land-lord and a tenant after the passing of this Act shall—

- (a) override any of the provisions of this Act with respect to the acquisition of a right of occupancy, or the reduction, remission or suspension of rent, or the enhancement of the rent of a tenant having a right of occupancy under section 3 or section 4; or
- (b) take away or limit the right of a tenant as determined by this Act to make improvements and claim compensation therefor or where compensation for disturbance can be claimed under this Act, to claim such compensation; or
- (c) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.

(2) Nothing in clause (a) of sub-section (1) shall apply to an agreement by which a tenant binds himself to pay an enhanced rent not exceeding one third of the produce in consideration of an improvement which has been or is to be, made in respect of his tenancy by, or at the expense of his land-lord, and to the benefit of which the tenant is not otherwise entitled.

147. Repeals.—With effect from the date of publication of the notification under sub-section (3) of Section I—

(a) the Punjab Tenancy Act, 1887 as applied to the Himachal Pradesh is hereby repealed;

(b) so much of any other law as is inconsistent with the provisions of this Act shall be deemed to be and is hereby repealed;

(c) wherever the words "Punjab Tenancy Act, 1887, as applied to Himachal Pradesh" have been referred to in Himachal Pradesh Land Revenue Act, 1953 those may be substituted by the words "The Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953".

148. Savings.—(1) The repeal of the Punjab Tenancy Act, 1887 as applied to the Himachal Pradesh under section 147 shall not affect its previous operation:

(2) Subject to the provisions of sub-section (1), anything done or any action taken including any appointment or delegation or transfer made, notification, proclamation, order, instruction or direction issued, authorities and powers conferred, rights acquired and liabilities incurred, rule, regulation, form, bye-law or scheme framed, time and place appointed and other things done under the repealed Act or law shall—

(a) be deemed to have been done or taken under the corresponding provisions of this Act;

(b) continue in force unless and until directed otherwise or superseded by anything done or any action taken under this Act by the State Government or other competent authority.

SCHEDULE I

(SEE SECTION 12)

The compensation payable to the landowner shall be:—

(a) in the case of an occupancy tenant an amount equal to the aggregate of the amount of land liable to pay as rent an amount

not exceeding the aggregate of the land revenue, rates and cesses for the holding in which the tenancy is situate;

revenue, rates and cesses payable for the holding;

(b) in the case of an occupancy tenant liable to pay rent exceeding land revenue for the holding in which the tenancy is situate—

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| (i) Where the rent does not exceed $1\frac{1}{8}$ times the land revenue plus rates and cesses for the holding, | an amount equal to the aggregate of $1\frac{1}{2}$ times the annual land revenue plus rates and cesses payable for the holding; |
| (ii) where the rent exceeds $1\frac{1}{8}$ times but does not exceed $1\frac{1}{4}$ times the land revenue plus rates and cesses for the holding, | an amount equal to the aggregate of 3 times the annual land revenue plus rates and cesses payable for the holding; |
| (iii) where the rent exceeds $1\frac{1}{4}$ times but does not exceed $1\frac{3}{8}$ times the land revenue plus rates and cesses for the holding, | an amount equal to the aggregate of $4\frac{1}{2}$ times the annual land revenue plus rates and cesses payable for the holding; |
| (iv) where the rent exceeds $1\frac{3}{8}$ times, but does not exceeds $1\frac{1}{2}$ times the land revenue plus rates and cesses for the holding, | an amount equal to the aggregate of 6 times the annual land revenue plus rates and cesses payable for the holding; |
| (v) where the rent exceeds $1\frac{1}{2}$ times, but does not exceed $1\frac{3}{4}$ times the land revenue plus rates and cesses for the holding, | an amount equal to the aggregate of 9 times the annual land revenue plus rates and cesses payable for the holding; |
| (vi) where the rent exceeds $1\frac{3}{4}$ times, the land revenue plus rates and | an amount equal to the aggregate of 12 times the |

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| cesses for the holding, | annual land revenue plus rates and cesses payable for the holding; |
| (c) in the case of an occupancy tenant liable to pay rent as mentioned in Section 28, | an amount equal to the aggregate of 24 times the annual land revenue plus rates and cesses payable for the holding; |
| (d) in the case of a non-occupancy tenant, | an amount equal to the aggregate of 48 times the annual land revenue plus rates and cesses payable for the holding in which the tenancy is situate." |

SCHEDULE II

(See section 27)

The compensation payable to the land owner by the State Government shall be :—

	In case of occupancy tenant	In case of non-occupancy tenant
(i) for land revenue up to Rs. 125.	24 times	48 times
(ii) thereafter for land revenue exceeding Rs. 125 but not exceeding Rs. 250.	12 times	24 times
(iii) for land revenue exceeding Rs. 250 but not exceeding Rs. 500.	8 times	16 times
(iv) for land revenue exceeding Rs. 500 but not exceeding Rs. 1,000.	4 times	8 times
(v) for land revenue exceeding Rs. 1,000.	2 times	4 times